

REMARKS

In the Office Action mailed on May 10, 2010, the Examiner rejected each of pending claims 1-37 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wright et al. (U.S. Patent No. 5,201,880) in view of one or more of Diederich et al. (U.S. Patent No. 6,117,101), Wright (U.S. Patent No. 5,522,884), Grimes (U.S. Patent No. 6,312,447), Purdy et al. (U.S. Patent No. 5,562,729), Fowler, Jr. et al. (U.S. Patent No. 5,086,776), Killmann (U.S. Patent No. 5,846,198), Mehta (U.S. Patent No. 5,476,453), McIntyre (U.S. Patent No. 5,291,895), and Kadhiresan (U.S. Patent No. 5,935,081).

By this Amendment, Applicant amends claims 1, 3, 19, 21, 22, and 30. Claims 1-37 remain currently pending. Of these claims, claims 1 and 19 are independent.

As an initial matter, Applicant would like to thank Examiner Schillinger for the courtesies extended to Applicant's representative during the telephonic interview of October 5, 2010. In the interview, Applicant argued that Wright et al. failed to disclose, teach, or otherwise suggest, among other things, advancing a prosthesis "into a coronary sinus." Examiner Schillinger agreed with Applicant's position with regard to claim 1 and suggested adding the recitation of a "coronary sinus" to claim 19. Applicant understands from Examiner's Schillinger comments that independent claim 1 and presently amended independent claim 19 are patentable over the applied references.

If the Examiner disagrees with the Applicant's comments regarding the substance of the interview, the Examiner is invited to contact the undersigned as soon as possible, in order to resolve such disagreement.

Applicant respectfully traverses the Section 103(a) rejection of claims 1-5, 12, 19, 21-23, and 30 over Wright et al. and Diederich et al.

As discussed during the aforementioned interview, independent claim 1 requires, among other things, "transluminally advancing a prosthesis . . . into a coronary sinus." Amended claim 19 also now requires "advancing an adjustable prosthesis in a first configuration into a coronary sinus." Wright et al., however, is drawn towards an annuloplasty ring that is "sewn onto the mitral annulus of the heart" and includes no disclosure whatsoever of placing a prosthesis into the coronary sinus of a patient. Accordingly, Applicant understands from Examiner Schillinger's comments during the interview that Wright et al. fails to render unpatentable the subject matter of claims 1 and 19.

The Examiner relies on Diederich et al. solely for the alleged teaching of "monitoring hemodynamic function in col. 19, lines 54 through col. 20, lines 8 for the purpose of assessing the patient's safety through his cardiac operations." See Office Action at page 2. Even if Diederich et al. teaches what the Examiner alleges, which Applicant does not concede, Diederich et al. fails to overcome the above-described deficiencies of Wright et al. at least with respect to independent claims 1 and 19.

Claims 2-5, 12, 21-23, and 30 dependent on one of independent claims 1 and 19 and are allowable at least due to their dependence upon these base claims, as well as for their additionally recited features.

For at least these reasons, Applicant respectfully requests the reconsideration and withdrawal of the Section 103(a) rejection of claims 1-5, 12, 19, 21-23, and 30 over Wright et al. and Diederich et al.

Applicant respectfully traverses the various Section 103(a) rejections of claims 6-11, 13-18, 20, 24-29 and 31-37 over the various combinations of Wright et al. in view of one or more of Diederich et al., Wright, Grimes, Purdy et al., Fowler, Jr. et al., Killmann, Mehta, McIntyre, and Kadhiresan. Even if these references teach what the Examiner alleges, which Applicant does not concede, each of claims 6-11, 13-18, 20, 24-29 and 31-37 are allowable at least due to their dependence from one of independent claims 1 and 19.

For at least reasons, Applicant respectfully requests the reconsideration and withdrawal of the Section 103(a) rejections of claims 6-11, 13-18, 20, 24-29 and 31-37 over the various combinations of Wright et al. in view of one or more of Diederich et al., Wright, Grimes, Purdy et al., Fowler, Jr. et al., Killmann, Mehta, McIntyre, and Kadhiresan.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to an exemplary embodiment described in the specification or abstract and/or shown in the drawings. Rather, Applicants is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

If the Examiner wishes to discuss this application, she is invited to contact the undersigned at (202) 408-4221.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 7, 2010

By:


Dinesh N. Melwani
Reg. No. 60,670
(202) 408-4000